United States Steel Corporation Western Steel Operations South Works and United Steelworkers of America Local Union 1065

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BOARD OF ARBITRATION

Case No. USS-7989-H
March 23, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
WESTERN STEEL OPERATIONS
South Works

and

UNITED STEELWORKERS OF AMERICA
Local Union No. 1065

Grievance No. HS-69-56

Subject: Local Working Condition -
Alleged Improper Discontinuance of
Jobs and Dispersal of Job Duties

Statement of the Grievance: "The Union, on behalf of em-
ployees of Blast Furnace Accounting, request
Management to comply with Basic Labor Agreement
of August 1, 1968, Section 2.

"Facts: On May 21, 1969,
Management notified Union that positions of
Car Record Clerk and Production Record Clerk
are eliminated and duties of the above posi-
tions are molded to mill clerks or other
personnel.

"Remedy Requested: To
maintain those positions and to reimburse any
affected employees for all monies lost."

Grievance Data:

Grievance Filed in Step 2: 
Appealed to Step 3: 
Step 3 Meeting: 
Appealed to Step 4: 
Step 4 Meetings: 
Appealed to Arbitration: 
Case Heard: 
Transcript Received: 

Dates

June 13, 1969
June 23, 1969
July 31, 1969
August 19, 1969
September 12, 1969
February 4, 1970
August 17, 1970
November 2, 1970
None

Statement of the Award: The grievance is sustained only to the extent that Management is directed to cease and desist from assigning specific bargaining unit work tasks (which, prior to the discontinuation of the two herein disputed jobs, solely were performed by bargaining unit employees on jobs normally performed by such employees) to supervisory personnel, in violation of Section 2-A-3 of the Basic Labor Agreement.
This grievance from South Works' Blast Furnace Division presents claims that Management, since about October, 1968, has (1) improperly discontinued the hourly jobs of Production Record (Pig Iron) Clerk, JC-8 and Car Record (High-Line) Clerk, JC-5, and (2) improperly assigned certain former duties of those jobs to the job of Mill (GPO) Clerk, JC-7 and/or to other bargaining unit jobs as well as to "members of Management" in violation of Sections 2 and 13 of the August 1, 1968 Basic Labor Agreement.

Management, in its brief, details relevant background facts in a statement of position as follows:

"The discontinuance of two hourly jobs in the Accounting Department - Blast Furnaces Division was the culmination of a number of changes that have taken place in the Blast Furnaces Division Operating Departments since 1960.

"At that time the Accounting Department manned both the 1-4 & E and the 5-12 Furnace areas with two of the jobs currently under dispute:

1-4 & E Fces.  
Car Record Clerks (Hi-Line) JC 5 H

----

Mill Clerk (Blast Fces.) JC 7 H

5-12 Fces.  
Same
Prod. Record Clk. (Pig Iron) JC 8 H  
Same

"In 1961 the position of Car Record Clerks (Hi-Line) was discontinued at the 1-4 & E Furnaces. Residual functions of the job
"were performed by the same job on the 5-12 Furnaces or were transferred to the Mill Clerk - Blast Furnaces at the 1-4 & E Furnaces. This move was similar in nature to the present dispute and received no opposition from the Union at that time nor were any grievances filed. This change was primarily due to a reduced furnace operating level, including the partial dismantling of #3 Furnace which last operated in 1960.

"In May of 1966 Mill Clerk coverage on the 1-4 & E Furnaces was reduced from 21 turns to 7 turns per week because of reduction in furnace operations. In December 1967, the 1-4 & E Furnaces increased operations to a 3-furnace level, but the Mill Clerks were not returned. The Union filed Grievance HS-68-10 on 1-12-68 and, after proceeding through the Fourth Step of the grievance procedure, withdrew the grievance on 3-14-69 thereby acknowledging the Company's action in transferring residual functions to other Blast Furnace clerical positions and other personnel. Management prepared 'Form G's' to update all the jobs involved in this reassignment of work. No reclassification changes occurred and no formal 'Form G's' were issued.

"In October 1968, the Car Record Clerks (Hi-Line) 5-12 Furnace were physically relocated from the Hi-
"Line to the 5-12 Department office, and the three jobs, Car Record Clerk (Hi-Line), Product Record Clerk (Pig Iron) and Mill Clerk (Blast Furnaces), were consolidated into the Mill Clerk (Blast Furnaces) job. A 'Form G' was prepared to update the Mill Clerk (Blast Furnaces) job deleting obsolete Mill Clerk functions and adding residual functions from the Car Record Clerk (Hi-Line) job. The Product Record Clerk (Pig Iron) was discontinued in its entirety because the primary function was no longer existent due to elimination of production and sale of merchant pig iron.

"On May 21, 1969, the Union and the employees were notified that the reclassified Mill Clerk (Blast Furnaces) job was evaluated as a JC 7 H and they would be paid accordingly from that date. Prior to May 21, i.e., from October 1968 to May 1969, employees functioning on the Mill Clerk job were paid on the highest rated of the three jobs involved, i.e., Product Record Clerk (Pig Iron) JC 8 H.

"The brief history related above shows the major changes to the clerical work force over the years caused by changes in furnace opera-
tions and practices. The functions in the three jobs in dispute in the instant grievance have gradually eroded over the last ten years due to many technological and operating practice changes, primarily as a result of the increased use of a high degree of beneficiated ores.

"The Product Record Clerk (Pig Iron) JC 8 H was affected by the marked reduction in Merchant Pig Iron production which dropped from a 150 M annual ton level in 1953 to a 20 M annual ton level in 1958 with a slow continuing drop to the present sporadic operation. The 1969 total was less than 5 M. The primary function no longer exists due to this change in production requirements. The changes in the working procedure of the Car Record Clerk (Hi Line) JC 5 H and the Mill Clerk (Blast Furnaces) JC 7 H are specifically detailed in Exhibit A, pages 1, 2 and 3. Among the factors contributing to the reduced workload level relative to this position was the partial dismantling of #5 Furnace which last operated in August 1965. Introduction of better communication (PA Systems) has also materially improved clerical efficiency, reducing reporting, telephoning and messenger service, formerly required.

"Management's action in making these jobs changes is both contemplated and permitted by Section 3 and by Section 9-D, paragraph 126 of
"the Basic Agreement. Prior similar action was acknowledged by the Union in their withdrawal of Grievance HS-68-10 in the Fourth Step and their compliance when the Company eliminated the 1-4 & E Car Record Clerks (Hi-Line) in 1961.

"There is no violation of Section 2 covering the scope of the agreement as alleged by the Union.

"In view of these above stated facts the Company requests that this grievance be denied."

The position of the Union succinctly is stated in the Grievance Minutes as follows:

"STATEMENT
OF UNION
POSITION

"The discontinuance of the two jobs in dispute, and related reductions in man turn coverage, are in violation of Section 2-B of the Labor Agreement.

"Although there may be some justification for elimination of the job of Production Record Clerk (Pig Iron) and the related 5 man turn coverage per week, there is no such justification for the elimination of the job of Car Record Clerk (High-line) and its related 16 man turn coverage per week. In addition, supervision is performing some of the duties of the discontinued Car Record Clerk job in violation of Section 2-A-3 of the Labor Agreement."
And, in its brief the Union adds:

"It is the position of the Union that the Company is in violation of the Basic Labor Agreement, Sections 2 and 13, by eliminating the jobs of Car Record Clerk and Production Record Clerk without eliminating the inherent duties of these occupations, and having parts of these duties performed by non-bargaining unit employees. For these reasons, the Union requests the grievance be granted."

During the grievance procedure Management urged:

"The basis for the existence of the crew-size arrangement formerly in effect for the two discontinued jobs has been eliminated. The Company's action here in dispute was properly taken within the meaning of Section 2-B-4 of the Labor Agreement, explained as follows:

a. With respect to the discontinued job of Production Record Clerk (Pig Iron) all associated work virtually has been eliminated; Merchant Pig Iron is no longer produced, thereby, causing the elimination of its 'Primary Function.' The remaining sporadic pigging of iron occurs so infrequently that the minimal record keeping activity involved is properly assigned to other clerical forces.

b. Exhibit A, attached, sets forth details of the significant reduction of work volume formerly involved in the key job here in
"dispute of Car Record Clerk (High-line); also shown is the reduction of work volume for the job of Mill Clerk (Blast Furnaces) as compared to its original content.

"It is noted that Exhibit A reflects the assumption by the Foreman of certain activities identified with the discontinued job of Car Record Clerk (High-line). In each instance, as explained in Exhibit A, the work involved is negligible in amount and is incidental to the Foreman's duties; with regard to this, Section 2-A-3 (Paragraph 8.7) of the Labor Agreement provides that:

'Work which is incidental to supervisory duties on a job normally performed by a supervisor, even though similar to duties found in jobs in the bargaining unit, shall not be affected by this provision.'"

And, at the hearing, Exhibit A entitled "Specifics as to Company Basis for Discontinuing the Job of Car Record Clerk (High-Line) and Related Reduction," etc., was presented into evidence. The document reveals:
Working Procedure of Car Record Clerk (High-Line), Code 7737

<table>
<thead>
<tr>
<th>Estimated Minutes of Work Time Per Turn</th>
<th>Extent of Reduction</th>
<th>Disposition of Work Function (Deleted or Transferred)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Writes loading reports and switch orders (710 and 711) on materials loaded for the Open Hearths and for the 1-4 &amp; E Blast Furnaces; and writes switch orders (726) for ore loaded on the high-line for Furnace Nos. 5 and 6.</td>
<td>30</td>
<td>30</td>
<td>Deleted</td>
</tr>
<tr>
<td>2. Receives daily report of cars of coke and miscellaneous material (Open Hearth slag, scale, scrap, etc.) in the Yard to be received and unloaded on the high-line; writes the switch orders (710), placing the car numbers on the switch orders after delivery (involves walking on the high-line to get each car number); checks material received against material ordered; writes unloading reports for each car unloaded; and writes a '24 Hour Activity Report,' showing orders, car settings, unloadings, and coke check.</td>
<td>120</td>
<td>45</td>
<td>a) Partially deleted-45 minutes (See adjacent explanation of Foreman's participation)</td>
</tr>
<tr>
<td>Estimated Minutes of Work Time</td>
<td>Extent of Reduction</td>
<td>Disposition of Work Function (Deleted or Transferred)</td>
<td>Comment</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>---------------------</td>
<td>------------------------------------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>Working Procedure of Car Record Clerk (High-Line), Code 7737</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. Checks engine stand-by time at Furnaces #5-12, and writes the switch orders (710) for the time.

4. Writes-in the un-loading data on 'Scrap Inspection Reports' for all foreign scrap un-loaded on the high-line.

5. Writes-in time cards (approximately 70 employees), showing code, occupation, turn, and hours worked; posts time worked in the time book; and prepares crew sheets.

6. Compiles the Stockhouse Report,' showing the burden changes made on each furnace.

1966:
Discontinued because the Blast Furnace Dept. acquired its own engines precluding the need for checking engine stand-by time and writing of switch orders.

1960:
Change in method to truck haulage of scrap to the high-line eliminated this function.

October, 1968:
Minimal work on keeping record of time worked by employees (customary type of work for Foreman); further no 'write-in' is required due to the use of rubber stamping.

Early 1950's:
Stockhouse Groupleader job established in 1950 assigned this function inherent to its responsibilities.
<table>
<thead>
<tr>
<th>Working Procedure of Car Record Clerk (High-Line), Code 7737</th>
<th>Estimated Minutes of Work Time Per Turn</th>
<th>Reduction</th>
<th>Disposition of Work Function (Deleted or Transferred)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. Completes the 'Bad Order Car Report,' showing time the car was set, etc., and forwards it and other reports.</td>
<td>10</td>
<td>0</td>
<td>To Foreman</td>
<td>October, 1968: Assumed by the Foreman in conjunction with pursuing his normal investigative duties.</td>
</tr>
<tr>
<td>8. Answers the telephone, receiving and relaying messages; and cares for the office files.</td>
<td>30</td>
<td>0</td>
<td>30 Minutes to Job of Mill Clerk (Blast Furnaces)</td>
<td>October, 1968: The activity of 'Cares for the office files' transferred to Mill Clerk (Blast Furnaces).</td>
</tr>
<tr>
<td>9. Writes and files personnel records, such as absentee reports, and physical eligibility for working on various jobs in the stockhouse and on the high-line.</td>
<td>10</td>
<td>0</td>
<td>The Foreman Receives Absentee Reports; Clerical Forces Handle the Personnel Records and the Physical Eligibility Records.</td>
<td>October, 1968: This work assumed by those indicated in adjacent column.</td>
</tr>
<tr>
<td>10. Writes and files records of, and arranges for, periodic inspections of safety belts.</td>
<td>5</td>
<td>0</td>
<td>To Foreman</td>
<td></td>
</tr>
</tbody>
</table>

Totals 295 Minutes 105 Minutes
Items of Deleted Work Appearing in the Job Description of the Job Mill Clerk (Blast Furnace), Code 7738

1. '...; and writes report of Merchant Iron Production.'

7. Writes 'Coke Check Sheet' on two turns, showing coke in yards and on high-line, and other operating data.

8. Walks to the pyrometer shanty at each furnace, and to the instruments in Superintendent's office, reading and recording average top and blast temperatures, stack temperatures, and stove operating data; gathers furnace operating data, and posts all in 'Heat Book'; sends report to Power Division.

10. On first turn checks Weigher Hot Metal weights against tonnages on 'Casting report'; calculates average daily tonnage for each furnace, each grade of iron, and group of furnaces; checks against Central Accounting figures, and posts on blackboard.

11. On first turn calculates tonnage of sinter used by each furnace in past 24 hours, and posts on blackboard; assembles and sends various reports to Central Accounting.

<table>
<thead>
<tr>
<th>Estimated Minutes of Deleted Work Time</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Discontinued years ago in conjunction with discontinuance of Production of Merchant Iron.</td>
</tr>
<tr>
<td>10</td>
<td>1963: Discontinued as no longer needed.</td>
</tr>
<tr>
<td>50</td>
<td>1960: This function initially entailed 60 minutes of work time per turn; 10 minutes of such time continues ('sends reports to Power Division') and is transferred to the Mill Clerk job reflected on the Form G for the latter job as Item 16. The balance of the work is discontinued as no longer needed.</td>
</tr>
<tr>
<td>20</td>
<td>1955: Discontinued as no longer needed.</td>
</tr>
<tr>
<td>10</td>
<td>1960: Discontinued as no longer needed.</td>
</tr>
</tbody>
</table>

Total: 100 Minutes
Finally, as the Step 4 Grievance Procedure Minutes indicate:

"On February 4, 1970, the parties reviewed Exhibit A, attached. The Union's comments regarding it were as follows:

1. As to Item 5 on Page 2: Union Witness Tomasik said that the Mill Clerk engages in some of the activity involved; that it is not just the Foreman to whom this work was transferred. (A subsequent check with Plant Management by the Company's Representative confirmed that this claim by the Union is correct; Exhibit A was changed accordingly to reflect this.)

2. As to Item 8 on Page 2: The Union's Representative said that the Company's estimate of 30 minutes per turn for the work involved, clearly, is wrong; that such should be more likely 20 minutes per hour (160 minutes per turn). (A subsequent check with Plant Management by the Company's Representative confirmed the Company's viewpoint that the 30-minute estimate per turn is proper in its reference to time spent under the discontinued job of Car Record Clerk - High-Line and added to the job of Mill Clerk.)

3. As to Item 9 on Page 2: The Union's Representative said that the Company's reflection of this activity being 'deleted' clearly is inaccurate; that the nature of the work involved is such that someone continues to perform it. (A subsequent check with
"Plant Management by the Company's Representative disclosed that the Union's opinion is accurate; that the work has been transferred to others rather than deleted. Exhibit A was revised, therefore, to reflect this.)"

Essentially, except as indicated above, the relevant facts are not seriously in dispute. The Union believes that Management improperly discontinued the two jobs in question and that it improperly dispersed certain duties of those jobs to the Mill Clerk job and to Management personnel. The position of Management remains (1) that "the basis for the existence of the crew size arrangement formally in effect for the two discontinued jobs has been eliminated" and its action here properly was taken under Section 2-B-4, and (2) that work otherwise assigned to Management personnel here "is negligible in amount and is incidental to the Foreman's duties," and, thus, not violative of the Agreement.

Notably, no significant evidence has been offered in connection with alleged Section 13 - Seniority violations.

FINDINGS

That the evidence raises a true "crew size" problem is not entirely clear. However, resolution of issues clearly raised, i.e., (1) whether the two disputed jobs improperly have been eliminated and/or (2) whether specific duties of those jobs improperly have been dispersed to other bargaining unit and to supervisory personnel, we believe, reasonably should settle even such remotely related questions.

The Production Record Clerk (Pig Iron) elimination, in our view, properly may not be challenged at this time. The undisputed evidence (1) that the Production Record Clerk job actually had not been performed (as originally described and classified) for some years prior to its formal discontinuation in 1968; and, (2) that "all associated work virtually has been eliminated" with "no significant residual functions" remaining, reasonably demonstrate the absence of any real basis (contractually or otherwise) for its nominal retention.
The Car Record Clerk job, as well as the Production Record Clerk job, are position-rated jobs which, under long established Board rulings, generally, are not protected from dispersal of job duties, or even from complete elimination by Management when it decides to discontinue the given functions. Thus, in USC-418, the Board stated:

"The status of these jobs is clear; Management may change job duties or assignments, subject only to whatever limitations may arise directly or indirectly from other provisions of the Basic Agreement in a specific fact situation. As to this type job—distinct from trade or craft—the agreed procedure for classifying new or changed jobs ordinarily provides adequate protection against possible circumvention of the agreed rate structure by redistributing duties among 'new' position rated jobs."

And, thus, the Union claim that Management improperly has eliminated the Production Record Clerk (Pig Iron) and the Car Record Clerk (High-Line) is without contractual support. The same applies to its claim of improper dispersal of duties to other existing bargaining unit jobs.

However, in the Grievance Procedure, as during the hearing, a collateral question was raised as to whether Management improperly assigned certain duties of the two disputed former bargaining unit jobs to supervisory personnel. On this issue, the record supports the Union claim of 2-A-3 violations. Section 2-A-3, notably, provides:

"3. Any supervisor at a plant shall not perform work on a job normally performed by an employee in the bargaining unit at such plant; provided, however, this provision shall not be construed to prohibit supervisors from performing the following types of work:

a. experimental work;

b. demonstration work performed for the purpose of instructing and training employees;"
"c. work required of the supervisors by emergency conditions which if not performed might result in interference with operations, bodily injury, or loss or damage to material or equipment; and

d. work which, under the circumstances then existing, it would be unreasonable to assign to a bargaining unit employee and which is negligible in amount.

Work which is incidental to supervisory duties on a job normally performed by a supervisor, even though similar to duties found in jobs in the bargaining unit, shall not be affected by this provision."

Though Management urges (1) that its assignment here of residual duties (essentially, of the former Car Record Clerk job) to Foremen involves only a "negligible" amount of such work and (2) that such work further is "incidental" to the Foreman's job duties, we cannot agree.

The undisputed evidence shows that certain work now assigned to and performed by the Foreman (at least that indicated in Items No. 2, No. 5 and No. 7 of Exhibit A) solely had been performed by incumbents of the discontinued Car Record Clerk job. This work, consisting of some 45 minutes, 15 minutes, and 10 minutes per turn, respectively, does not appear "negligible" nor "incidental" to the Foreman's job duties (as historically performed), within the meaning of Section 2-A-3 of the Basic Agreement.

Upon the entire evidence presented, we conclude, therefore, that (1) Management is not shown improperly to have discontinued the disputed Production Record Clerk and Car Production
Clerk jobs; but that, (2) Management is shown improperly to have assigned certain duties, previously performed solely by incumbents of the Car Record Clerk job, to supervisory personnel. Accordingly, the instant grievance will be sustained only to the extent that Management be directed to cease and desist from assigning specific bargaining unit job work tasks (which, prior to the discontinuation of the two herein disputed jobs, solely were performed by bargaining unit employees on jobs normally performed by such employees) to supervisory personnel, in violation of Section 2-A-3 of the Basic Labor Agreement.

AWARD

The grievance is sustained only to the extent that Management be directed to cease and desist from assigning specific bargaining unit job work tasks (which, prior to the discontinuation of the two herein disputed jobs, solely were performed by bargaining unit employees on jobs normally performed by such employees) to supervisory personnel, in violation of Section 2-A-3 of the Basic Labor Agreement.

Findings and Award recommended pursuant to Section 7-J of the Agreement, by

Edward E. McDaniel
Assistant to the Chairman

Approved by the Board of Arbitration

Sylvester Garrett, Chairman